

EXHIBIT B

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October 31, 2011

Via Federal Express

Edward E. Lawson, MD
Editor-in-Chief
Journal of Perinatology
600 N. Wolfe Street Nelson 2-133
Baltimore, MD 21287-0001

Errol Alden, MD
Executive Director
American Academy of Pediatrics
141 Northwest Point Boulevard
Elk Grove Village, IL 60007-1019

Re: Rejection of Request for Retraction of Unreliable Publication

Gentlemen:

This office represents Dr. Edmund Egan and ONY, Inc. ("ONY"). Dr. Egan has provided us with his September 22, 2011 letter seeking retraction of the article by Ramanathan R, Bhatia JJ, Sekar K, Ernst FR, *Mortality in preterm infants with respiratory distress syndrome treated with poractant alfa, calfactant or beractant; a retrospective study*, Journal of Perinatology (2011) (pages 1-7, e-published September 1, 2011) (the "Offending Article"), published by the Journal of Perinatology, an "official journal" of the American Academy of Pediatrics (the "Official Journal" of the "AAP"), along with the ensuing e-mail exchange. We write to you because it has been over two weeks since Dr. Egan's October 14, 2011 e-mail requesting reconsideration of your refusal to retract the Offending Article in light of its self-evident unreliability and he has not to date received the courtesy of a response.

Dr. Egan's prior communications quite cogently articulated a sufficient number of the many reasons why the Offending Article is scientifically unreliable. I will not repeat them here. Suffice it to say that the decision not to retract the Offending Article flies in the face of generally accepted standards for peer-reviewed academic journals and allows an unreliable article to remain in the published literature with the *imprimatur* of both the AAP and its Official Journal.

Of course, the reason Dr. Egan has asked me to write is because of the economic harm caused by your reckless publication of an untrustworthy and deceptive publication, which is being compounded by your failure to take the only appropriate action – retraction. Dr. Egan and

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ONY will not passively accept the damage occasioned by the authors' creation, and your perpetuation, of a false and misleading article which was motivated by commercial gain and is not honest science. That you have declined to take the only responsible action once advised of the Offending Article's unreliability only exacerbates the culpability of the Journal of Perinatology, its sponsors, the authors of the article and the sponsors of the so-called research project.

Accordingly, we now demand – not request – that you immediately, within one week, announce the retraction of the Offending Article. In the event you continue to refuse to do so, we have advised Dr. Egan and ONY of their available legal options to obtain compensation from all those responsible for the creation, publication, and continuing support of this deceptive article for the mounting economic damage it continues to cause.

Thank you in advance for your anticipated cooperation in retracting the Offending Article. This letter is, of course, without prejudice to, but rather with the full reservation of, Dr. Egan and ONY's rights in the matter.

Very truly yours,

JAECKLE FLEISCHMANN & MUGEL, LLP

By:



Mitchell J. Banas, Jr.

MJB/cls

cc: (via United States, First Class Mail)
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